



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

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3/5/99

EPA Region 5 Records Ctr.



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March 5, 1999

VIA TELEFACSIMILE AND
FIRST-CLASS MAIL

Mort Ames
Assistant Corporation Counsel
Department of Law
City of Chicago
Suite 900
30 N. LaSalle Street
Chicago, Illinois 60602-2580

Vincent S. Oleskiewicz
Baker & McKenzie
One Prudential Plaza
130 East Randolph Drive
Chicago, Illinois 60601

Dear Mr. Ames and Mr. Oleskiewicz:

Thank you for the opportunity to comment on the Lindsay light II Draft Right-of-Way Agreement dated February 19, 1999. It appears that The City and River East have made significant progress toward providing an effective, long-term method of ensuring safe management of the radioactive material located beneath the Columbus Drive sidewalk and along the Illinois Street right-of-way. Our specific comments follow. After you have had an opportunity to review them, perhaps we should have a meeting the week of March 8, 1999 to discuss the final changes and set a schedule to finalize the Agreement. We do not want to delay construction activities but also we do not want the excavation of areas adjacent to the contamination to occur without the completed Right-of-Way Agreement.

Comments:

Page 2. Para. g. Thorium residuals are present beneath the Columbus Drive sidewalk and along the Illinois Street right-of-way. As we noted in the February 18, 1998 letter from Fred Micke and Vernetta Simon to David J. Reynolds, there may be additional contamination under Grand Avenue or McClurg Court that was not detected because it was shielded by concrete and soil. Any excavation under McClurg Court or Grand Avenue must include radiation surveillance.

Insert after second to last sentence: "Presently no data indicates that contamination exists under Grand Avenue or McClurg Court, however the shielding effects of the asphalt, soil and concrete

may make any radiation undetectable from the surface.”

Also the last sentence of paragraph g. should be changed to read: “Attachment ___ depicts the portions of Illinois Street, Columbus Drive, Grand Avenue and McClurg Court that are the subject of this Agreement.

Page 2. Para. 2. h. Line 1. The word “known” should be inserted into the sentence. “Attachment _ is a site map showing, at the time of the execution of this Agreement, the known area of the Thorium Residuals.” With respect to question of groundwater contamination, given the insoluble nature of thorium, it is not anticipated and there is no evidence of thorium contamination in the groundwater associated with this Site. References to groundwater contamination may be deleted from the Agreement.

Page 3. Para. 5. a. Line 1.
Following “engineered barrier” insert “to gamma radiation emanating from Thorium Residuals.”

Page 3. Para. 5. b. Lines 6-7. Delete “as it deems appropriate”
Fourth line from bottom. Please add USEPA to the notice provision.

Page 5. Para 11 a. Add a provision for notice to River East and USEPA if there is a permit application.

Line 5. Strike “If there is contamination reported in the right-of-way the database will indicate this and ...” and replace with “The CDOT permit database will indicate the reported contamination under Columbus Drive and Illinois Street and radiation surveillance must be performed before and during excavations under Grand Avenue and McClurg Court. The data base will CDOT to direct the permit applicant to DOE to obtained detailed information on the nature and extent of the contamination and of the radiation surveillance requirements for any excavation near Grand Avenue or McClurg Court.”

Second to last line insert “reviewed by USEPA” after “other plan”

Para. 12. This nullification clause appears overly broad. If the agreement becomes null and void then there are no protective measures in place.

Para 13. Delete “or through natural attenuation” because the half-life of thorium contamination is several billion years and natural attenuation does not occur for all intents and purposes.

U.S. EPA looks forward to working with the City and River East to resolve this matter in the next few weeks. Please call me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary L. Fulghum", followed by a horizontal line.

Mary L. Fulghum
Associate Regional Counsel

cc: Richard Meserve

U.S. EPA looks forward to working with the City and River East to resolve this matter in the next few weeks. Please call me if you have any questions.

Sincerely,

Mary L. Fulghum
Associate Regional Counsel

cc: Richard Meserve

bcc: Verneta Simon
Fred Micke
Jose DeLeon